

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG

DAVID COATS,

Petitioner,

v.

Civil Action No. 1:18-cv-137
(Judge KleeH)

FREDERICK ENTZEL,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 14] AND
DISMISSING THE PETITION WITH PREJUDICE [DKT. NO. 1]

On July 2, 2018, the pro se Petitioner, David Coats ("Petitioner"), an inmate at FCI Hazelton in Bruceton Mills, West Virginia, filed a petition in this action pursuant to 28 U.S.C. § 2241 [Dkt. No. 1] challenging his conviction in the Superior Court of the District of Columbia.

Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï for initial review. On April 22, 2019, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court deny and dismiss the petition with prejudice [Dkt. No. 14]. The Court agrees with the R&R finding that Petitioner failed to demonstrate that the remedy available to him under D.C. Code § 23-110(f), which is exclusive, is inadequate or ineffective [Id. at 7].

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 14]

The R&R also informed the parties that they "shall have fourteen (14) days (filing of objections) and then three days (mailing/service), from the date of filing this Report and Recommendation" within which to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection" [Dkt. No. 14 at 8]. It further warned that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals" [Id.]. The docket reflects that service of the R&R was accepted April 25, 2019 [Dkt. No. 15]. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations" to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no

ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 14]

obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. This Court agrees with the R&R findings that Petitioner's Petition should be denied and dismissed with prejudice due to a lack of jurisdiction. Accordingly, upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [Dkt. No. 14]. The § 2241 Petition [Dkt. No. 1] is **DENIED** and **DISMISSED WITH PREJUDICE**. The Court further **ORDERS** that this matter be **STRICKEN** from the Court's active docket and **DIRECTS** the Clerk to enter judgment in favor of Respondent.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to the pro se Petitioner via certified mail, return receipt requested.

DATED: July 1, 2021

/s/ Thomas S. Kleeh
THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE